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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,316	03/01/2002	James R. Fore SR.	4287-008	8488

24112 7590 03/26/2003

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RALEIGH, NC 27602

EXAMINER

PHAM, MINH CHAU

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,316

Applicant(s)

FORE ET AL.

Examiner

Minh-Chau Pham

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 10-13 is/are allowed.
- 6) ☒ Claim(s) 7-9 and 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to because: (see attached drawings):
- a. Fig. 1, rib "29d" should be "29b" since the rib is centered on the major axis;
 - b. Fig. 2, rib "29a" should be "29c" since the rib is centered on the minor axis;
 - c. Fig. 3, "26e" and "26f" should be "27e" and "27f", respectively, since they represent the two latch surfaces;
 - d. Fig. 4, the "27c" on the right end should be "29c" since it represents a rib, not an opening;
 - e. Fig. 5, latch surfaces "27f" and "27e" should be "27e" and "27f", respectively, to correspond to Fig. 4;
 - f. Fig. 5, in the cross-hatched area, "27a", "27b", "27c", and "27d" should be "29a", "29b", "29c", and "29d", respectively, since they represent the ribs; and
 - g. Fig. 7, the leader line of "11b" is missing and should point to the surface on the other side of "11a".

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: “26e” and “26f” (see Fig. 3). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 14 is objected to because of the following informalities: in lines 1-2, for “a cable container housing a cable winding”, there is a word missing between “a cable container housing” and “a cable winding”. Do applicants mean “a cable container housing of a cable winding”? For the purpose of examination, the examiner will assume so. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7-9 and 14-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 7 recites the limitation "the outside" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. Dependent claims 8-9, therefore, inherit the insufficient antecedent basis.

Art Unit: 3654

8. Claim 14 recites the limitation "the end" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim. Dependent claims 15-16, therefore, inherit the insufficient antecedent basis.

9. In claim 17, the limitations "the thickness of the individual ribs" and "the thickness of the wall" in last line have insufficient antecedent basis. Dependent claims 18-21, therefore, inherit the lack of antecedent basis.

10. Regarding claim 20, line 1, what do applicants mean by "the tube assumes"? Does the tube have a generally elliptical configuration or not? For the purpose of examination, the examiner will assume that the tube has a generally elliptical configuration.

11. Regarding claim 22, line 4, is "a pay-out tube" the same as or different than "a pay-out tube" in line 2 of the claim? If they are the same, then applicants should amend "a pay-out tube" in line 4 to "the pay-out tube". For the purpose of examination, the examiner will assume they are the same. Dependent claims 23-24, therefore, inherit the indefiniteness.

12. Regarding claims 23 and 24, applicants have claim 23 dependent on claim 23 and claim 24 dependent on claim 24. It is unclear what claims they are supposed to depend from.

Applicants need to clarify. Is claim 23 supposed to depend on claim 22, and claim 24 supposed to depend on claim 23? For the purpose of examination, the examiner will assume so.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3654

14. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Heyman (US 3,516,111).

Heyman discloses applicants' claimed invention, specifically teaching a method of securing an end of a cable (9) exteriorly of a cable container housing (1) comprising:

threading cable through a wall (4); and

retaining an end portion of the cable outside the cable container by inserting the end portion through a slitted surface (7) that defines at least two sections (see Fig. 1);

wherein the slitted surface (7) includes a membrane having at least one slit that defines a series of/at least four deflectable sections (col. 2, lines 29-64).

15. Claims 17-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Moser (US 5,152,476).

Moser discloses applicants' claimed invention, specifically teaching a pay-out tube, for use with a cable container and through which cable from a winding disposed within the container is fed, comprising:

a molded tube portion (120) including a surrounding wall (121) having a series of spaced apart, longitudinally disposed ribs (145);

wherein a thickness of the individual ribs (see Fig. 11, right cross-hatches) exceed a thickness of the wall (see Fig. 11, left cross-hatches);

wherein the wall of the tube includes inner (131) and outer (128) surfaces; and

wherein each rib (145) includes opposed ends [Fig. 11, by (126) and (143)].

Allowable Subject Matter

16. Claims 1-6 and 10-13 are allowed.

Art Unit: 3654

17. Claims 7-9 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

18. Claims 22-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

19. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, taken as a whole, fails to disclose or render obvious a pay-out tube comprising all the limitations claimed, including a combination of a generally elliptically-shaped tube having a major axis and a minor axis, and a series of/at least four spaced-apart reinforcing ribs as recited in claims 1 and 20; and a cable retainer for receiving an end portion of the cable exteriorly of the cable container and including a surface divided by one or more slits as recited in claims 10 and 22.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newman et al. (US 4,057,203) and Kotzur et al. (US 6,341,741 B1) are cited to show elliptically shaped pay-out tubes; Priest (US 4,274,607), Hunt (US 5,115,995), and Hunt et al. (US 5,150,852) are cited to show pay-out tubes with interior cable retainers; Fore (US 5,368,245) is cited to show a pay-out tube with an exterior cable retainer; and Wallace et al. (US 5,810,272) are cited to show a pay-out tube with ribs

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 305-0766. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3654

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on (703) 308-2688. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Minh-Chau Pham
Examiner
Art Unit 3654

pmc
March 20, 2003

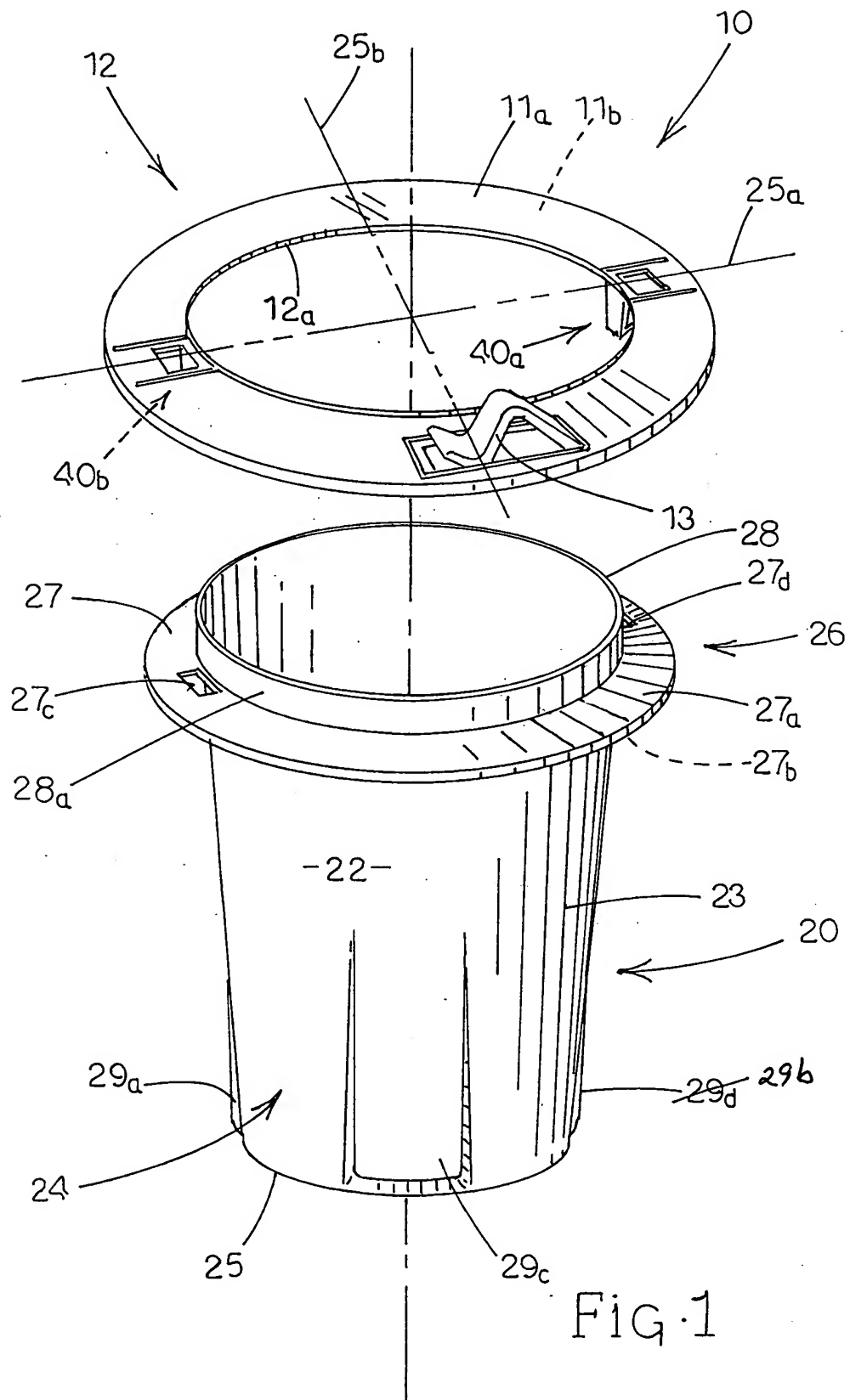
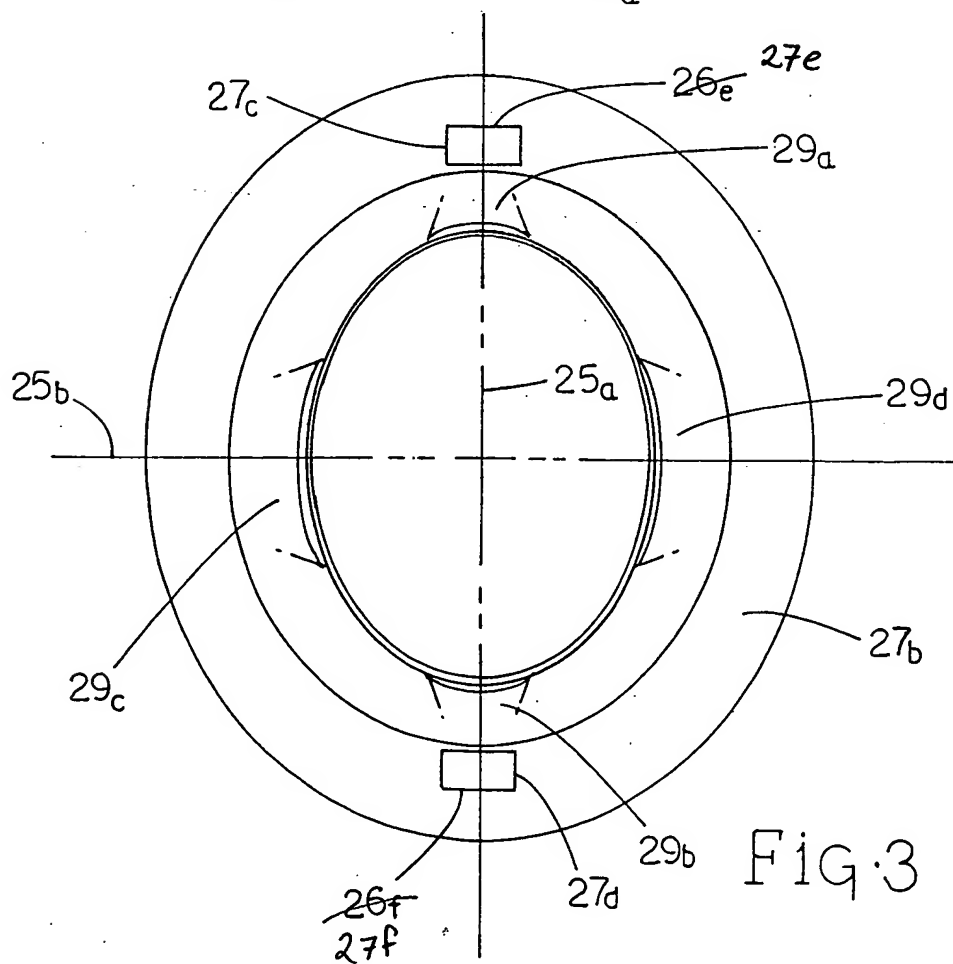
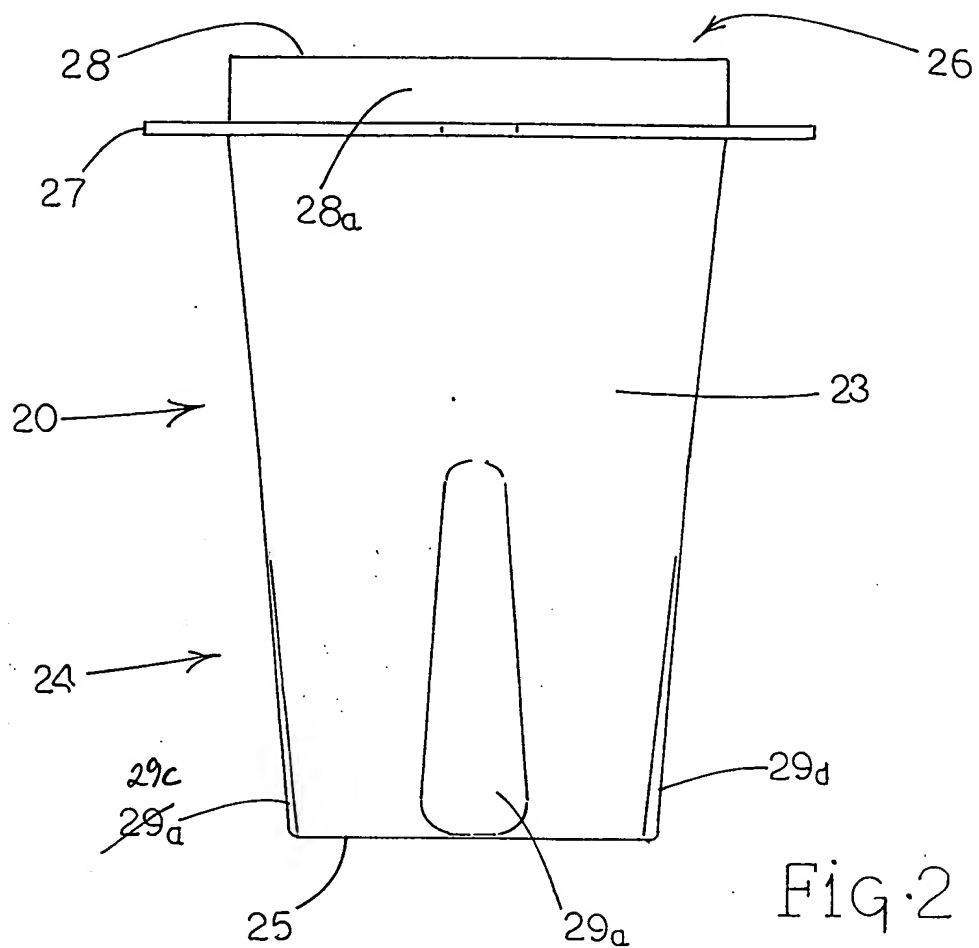
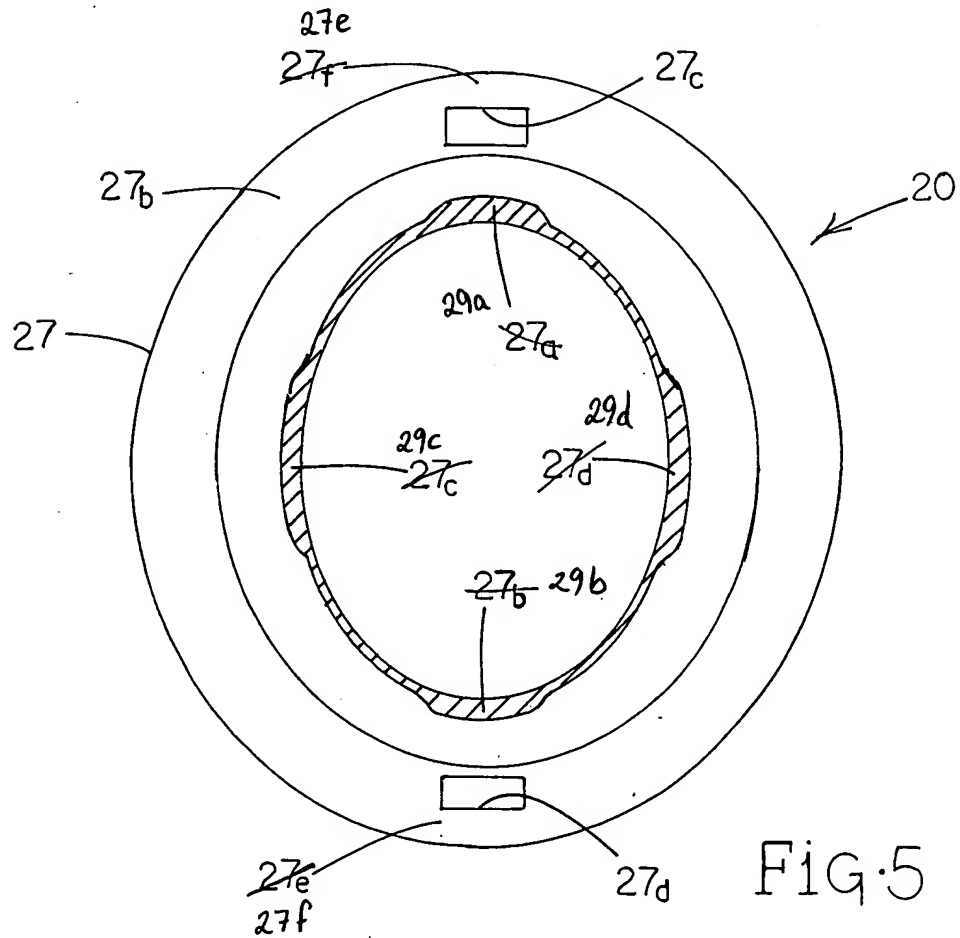
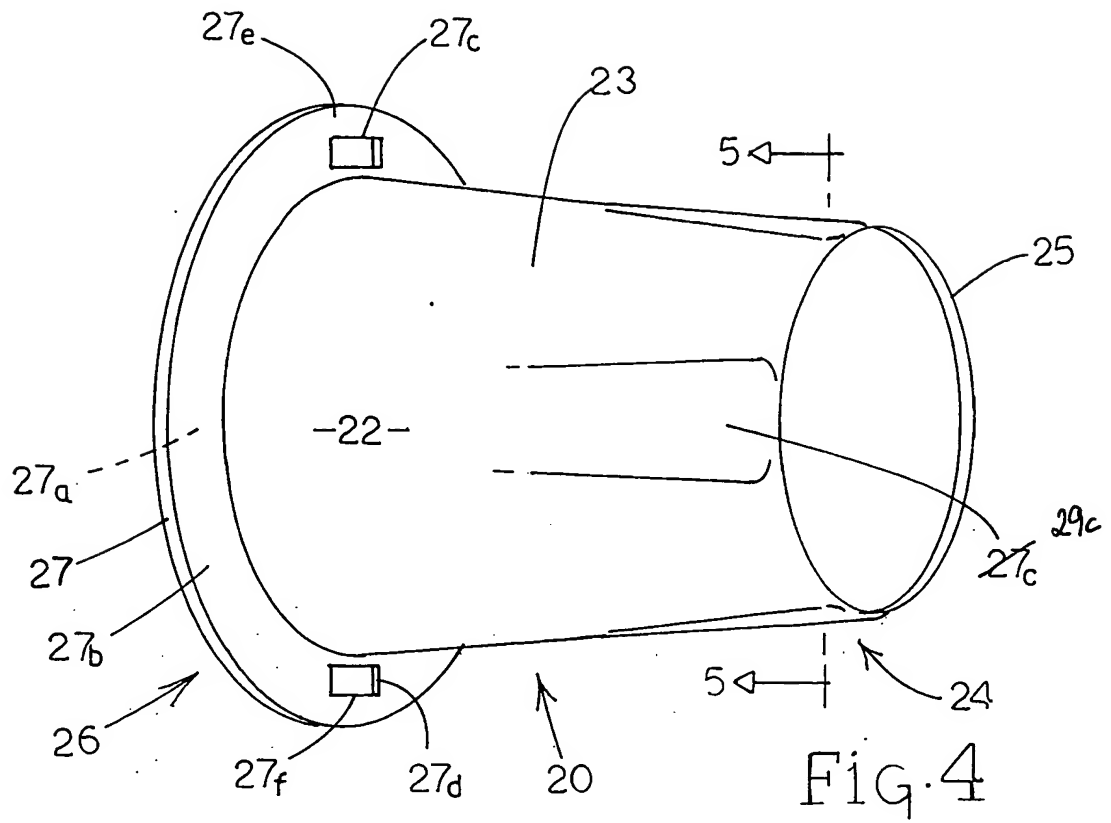


FIG. 1



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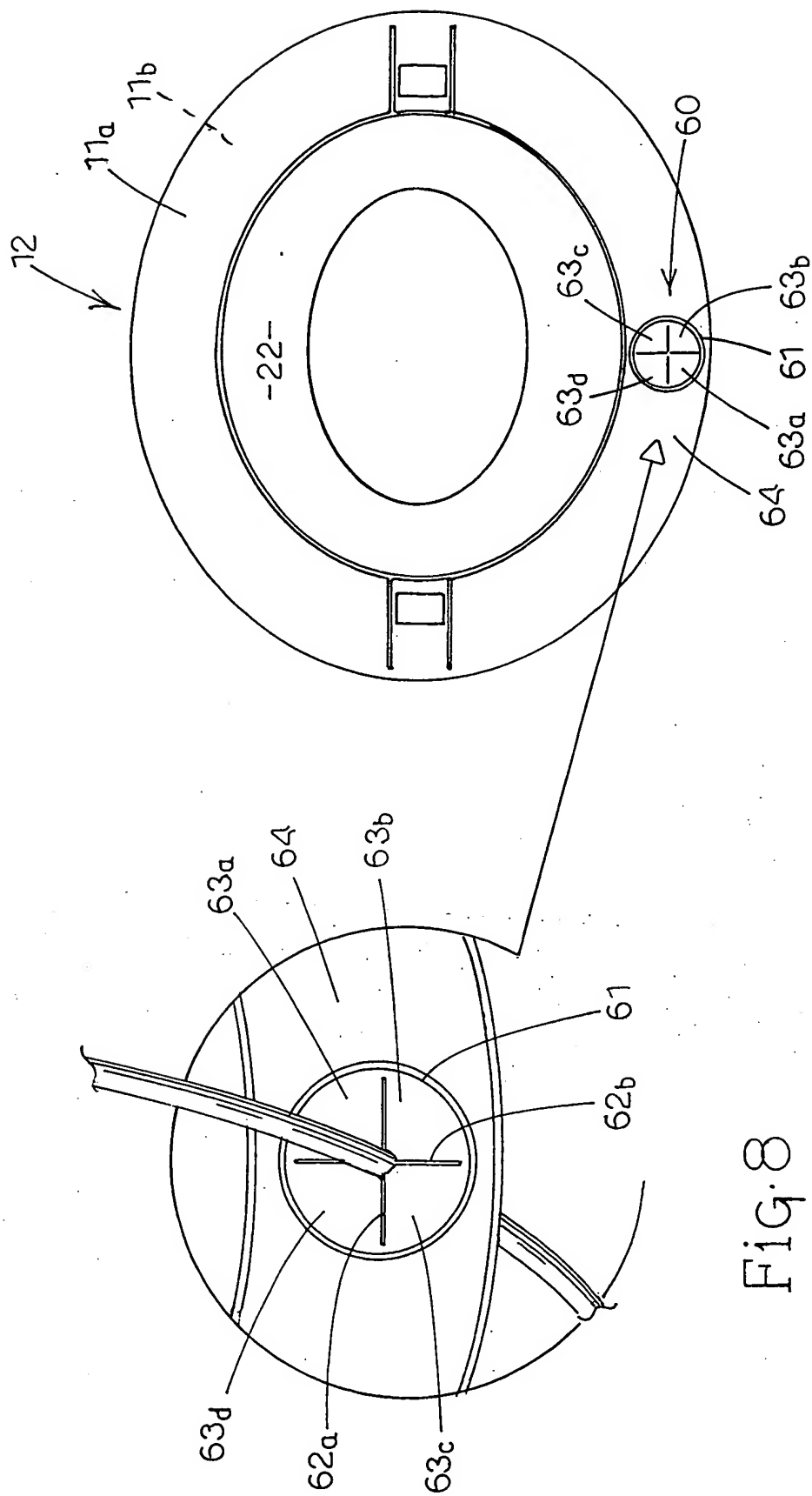


Fig.8

Fig.7